

Response to #2: DOE FINDING - FAILURE TO FOLLOW CAMPUS SECURITY ACT REGULATION REGARDING NOTIFICATION OF DISCIPLINARY ACTION.

The DOE Report confuses both the law and the facts. Miami, in fact, complies with the Campus Security Act regulations regarding notification of disciplinary action in cases of alleged sex offenses.

The Campus Security Act requires that universities notify both the accuser and the accused of the outcome of disciplinary proceedings in cases of alleged sex offenses. The attached affidavit of Susan Vaughn,¹⁶ Director of Judicial Affairs, details Miami's compliance with this notification requirement. In addition, Miami's annual security reports clearly state that both the accuser and the accused are entitled to notification. (See 1997 annual security report.)

Additionally, universities are permitted but not required by the Family Educational Rights and Privacy Act (FERPA) to disclose the outcome of disciplinary proceedings to any alleged victim of a crime of violence. Again, Miami, in accordance with law, has done so.¹⁷ Ms. Vaughn's affidavit details Miami's policy regarding this permissive notification process.

The DOE statement that Miami does not "ensure that complainants are always notified of the outcome of disciplinary proceedings" reflects an inaccurate interpretation of federal law. The fact is that when Miami can legally notify complainants of the outcome of disciplinary proceedings it has done so. However, Miami cannot legally notify complainants in all disciplinary proceedings. To do so would violate FERPA, which permits such disclosure only in cases of alleged sexual offenses or alleged crimes of violence.¹⁸

However, to avoid further confusion in cases of an alleged sex offense, Miami will notify in writing both the accuser and the accused of the outcome of any institutional disciplinary proceedings. Further, Miami will amend its Code of Student Conduct to reflect that in cases of an alleged sex offense, both the accuser and the accused will be notified, in writing, of the outcome of the disciplinary proceedings. Miami disputes the DOE's conclusion that it is unable to properly administer Title IV programs based upon its omission of such information from its Code of Student Conduct.

¹⁶Ms. Vaughn's affidavit is included in the Appendix on pg. 4

¹⁷Hence the portion of Miami's disciplinary procedures cited by DOE (1997-98 Code of Student Conduct pg. 22) implements 34 C.F.R. §99.31(a)(13) not 34 C.F.R. 688.47(a)(12)(vi). Although Miami employs various methods of notification, Miami complies with the mandatory disclosure requirements of 34 C.F.R. §668.47.

¹⁸34C.F.R. 99.31(a)(13)